

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SANTIAGO DEJESUS BRITO,

Plaintiff,

v.

CUMBERLAND COUNTY PRISON,

Defendant.

Civil Action No. 3:15-CV-1641

(Judge Kosik)

ORDER

AND NOW this 18th day of September, 2015, IT APPEARING TO THE
COURT THAT:

(1) Plaintiff, Santiago DeJesus Brito, an inmate confined at the Cumberland County Prison, Carlisle, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983;

(2) In the Complaint (Doc. 1), Plaintiff raises claims of failing to be served Ramadan meals while confined at the Cumberland County Prison;

(3) On August 27, 2015, Magistrate Judge Martin C. Carlson filed a Report and Recommendation (Doc. 7), wherein he recommended that the Complaint be dismissed without prejudice to Plaintiff filing an Amended Complaint within twenty (20) days of the dismissal Order¹;

(4) Specifically, the Magistrate Judge screened the Complaint pursuant to 28 U.S.C. §1915A, and found that the Complaint failed to state a claim upon which relief may be granted in that sole defendant is a county prison, which cannot be sued under 42 U.S.C. §1983;

¹In the Report and Recommendation, the Magistrate Judge grants Plaintiff's Motion to proceed in forma pauperis. However, on August 25, 2015, an Administrative Order was entered (Doc. 6), directing Plaintiff to file a proper application to proceed in forma pauperis and authorization form within thirty (30) days. We will provide Plaintiff with an opportunity to file the proper documentation.

(5) No timely Objections were filed to the Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) We agree with the Magistrate Judge that Plaintiff's Complaint fails to state a claim and should be dismissed without prejudice to Plaintiff filing an Amended Complaint.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson filed on August 27, 2015 (Doc. 7) is **ADOPTED**;

(2) Plaintiff's Complaint (Doc. 1) is **DISMISSED without prejudice**;

(3) Plaintiff is allowed twenty (20) days from the date of this Order in which to file an Amended Complaint, along with a proper application to proceed in forma pauperis and the Authorization Form referred to in the Administrative Order of August 25, 2015 (Doc. 6); and,

(4) Plaintiff is advised that failure to file a timely application to proceed in forma pauperis, Authorization Form and Amended Complaint will result in dismissal of this action.

s/Edwin M. Kosik

Edwin M. Kosik
United States District Judge